

347—120.8(88,89B) Discrimination. Iowa Code section 89B.9 provides that the employer shall not discharge or in any other manner discriminate against an employee because the employee has filed a complaint, brought an action under the Act, or has cooperated in bringing an action against an employer.

120.8(1) *Complaint procedure.* An employee shall file a written complaint to the division setting forth the alleged violation of Iowa Code section 89B.9 within 30 days of the alleged violation.

120.8(2) *Unprotected activity—employer action predicated on nondiscriminatory grounds.* Actions taken by an employer or others which adversely affect an employee may be predicated upon nondiscriminating grounds. An employee's engagement in activities protected by the Act does not automatically render an employee free from discharge or discipline for legitimate reasons or from adverse actions dictated by nonprohibitive considerations. The protection only applies when an adverse action occurs because the employee has engaged in a protected activity.

120.8(3) *Substantial reason standard.* To establish a violation of Iowa Code section 89B.9, the employee's engagement in protected activity need not be the sole consideration behind discharge or other adverse action. If the protected activity was a substantial reason for the action or if a discharge or other adverse action had not taken place "but for" engagement in protected activity, Iowa Code section 89B.9 had been violated. Ultimately the issues as to whether a discharge was because of protected activity will be determined on the basis of the facts of the particular case.

120.8(4) *Procedure.* Upon receipt of a written complaint, the commissioner shall commence an investigation to determine whether the provisions of Iowa Code section 89B.9 have been violated. If the commissioner determines a violation has occurred, the commissioner shall bring an action in the appropriate district court against the employer.